

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1633 be amended to read as follows:

- 1 Page 5, line 22, delete "will" and insert "**may**".
- 2 Page 5, delete lines 25 through 39.
- 3 Page 5, line 40, delete "(7)" and insert "**(3)**".
- 4 Page 5, line 40, delete "necessary and".
- 5 Page 6, delete lines 6 through 14.
- 6 Page 6, delete lines 34 through 42, begin a new line block indented,
- 7 and insert:
- 8 "**(2) offers the debtor an individualized plan that may include:**
- 9 **(A) a temporary forbearance with respect to the mortgage;**
- 10 **(B) a reduction of any arrearage owed by the debtor;**
- 11 **(C) a reduction of the interest rate that applies to the**
- 12 **mortgage;**
- 13 **(D) a repayment plan;**
- 14 **(E) a deed in lieu of foreclosure;**
- 15 **(F) reinstatement of the mortgage upon the debtor's**
- 16 **payment of any arrearage;**
- 17 **(G) a sale of the property; or**
- 18 **(H) any loss mitigation arrangement or debtor relief plan**
- 19 **established by federal law."**
- 20 Page 7, delete lines 1 through 8.
- 21 Page 7, delete lines 23 through 36, begin a new paragraph and
- 22 insert:
- 23 "**Sec. 9. (a) After June 30, 2009, except as provided in subsection**
- 24 **(d) and section 10(f) of this chapter, before a creditor files an**

1 action for foreclosure, the creditor shall send to the debtor by
 2 certified mail, return receipt requested, a presuit notice in a form
 3 prescribed by the Indiana housing and community development
 4 authority established by IC 5-20-1-3 that informs the debtor that
 5 the creditor intends to initiate a foreclosure and that the debtor
 6 may obtain assistance from a mortgage foreclosure counselor and
 7 that provides information on how to contact a mortgage
 8 foreclosure counselor."

9 Delete page 8, begin a new paragraph, and insert:

10 "(b) The notice required by subsection (a) shall be sent to:

11 (1) the address of the mortgaged property; or

12 (2) the last known mailing address of the debtor if the
 13 creditor's records indicate that the mailing address of the
 14 debtor is other than the address of the mortgaged property.

15 (c) Except as provided in subsection (d) and section 10(f) of this
 16 chapter, if a creditor files an action to foreclose a mortgage, the
 17 creditor shall include with the complaint served on the debtor in
 18 accordance with court rules a notice that informs the debtor of the
 19 debtor's right to participate in a settlement conference. The notice
 20 shall be served with the complaint and be in a form prescribed by
 21 the Indiana housing and community development authority
 22 established by IC 5-20-1-3. The notice must inform the debtor that
 23 the debtor may schedule a settlement conference by notifying the
 24 court of the debtor's intent to participate in a settlement
 25 conference not later than thirty (30) days after the notice is served.

26 (d) A creditor is not required to send the notices described in
 27 this section if:

28 (1) the loan is secured by a dwelling that is not the debtor's
 29 primary residence;

30 (2) the loan has been the subject of a prior foreclosure
 31 prevention plan;

32 (3) bankruptcy law prohibits the creditor from participating
 33 in a settlement conference under this chapter with respect to
 34 the loan; or

35 (4) the court finds that a settlement conference would be of
 36 limited value based on the result of a prior loss mitigation
 37 effort between the debtor and the creditor."

38 Page 9, delete lines 1 through 39.

39 Page 9, line 40, delete "creditor may not proceed" and insert "court
 40 may not issue a judgment of foreclosure under IC 32-30-10 on a
 41 mortgage subject to this chapter unless all of the following apply:

42 (1) The creditor has given the notice required under section
 43 9(c) of this chapter.

44 (2) The debtor either:

45 (A) does not contact the court within the thirty (30) day
 46 period described in section 9(c) of this chapter to schedule
 47 a settlement conference under section 9(c) of this chapter;

- 1 **or**
 2 **(B) contacts the court within the thirty (30) day period**
 3 **described in section 9(c) of this chapter to schedule a**
 4 **conference under section 9(c) of this chapter and, upon**
 5 **conclusion of the conference, the parties are unable to**
 6 **reach agreement on the terms of a foreclosure prevention**
 7 **agreement."**
 8 Page 9, delete lines 41 through 42.
 9 Page 10, delete lines 1 through 16.
 10 Page 10, line 22, delete "until:" and insert "**until sixty (60) days**
 11 **after the date the notice required by section 9(a) of this chapter**
 12 **was sent unless the mortgaged property is vacant."**
 13 Page 11, delete lines 10 through 42, begin a new paragraph, and
 14 insert:
 15 **"Sec. 11. (a) This section applies to a mortgage foreclosure**
 16 **action with respect to which the creditor has filed the complaint in**
 17 **the proceeding before July 1, 2009, and the court having**
 18 **jurisdiction over the proceeding has not rendered a judgment of**
 19 **foreclosure before July 1, 2009.**
 20 **(b) In a mortgage foreclosure action to which this section**
 21 **applies, the court having jurisdiction over the action shall serve**
 22 **notice of the availability of a settlement conference under section**
 23 **9(c) of this chapter."**
 24 Page 12, delete lines 1 through 3.
 25 Renumber all SECTIONS consecutively.
 (Reference is to HB 1633 as printed February 20, 2009.)

Representative Bardon